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PART III.

Legislative Measures and Rules thereunder.

NOTIFICATIONS.

No. Fl. 4736—S. R. 267-08-3, dated 23rd March 1910.

In exercise of the powers conferred by Section 29 of the Mysore Excise Regulation, V of 1901, as amended from time to time, and of all other powers enabling them in this behalf, the Government of His Highness the Maharaja of Mysore are pleased to make the following amendments to the Foreign Liquor Rules published under Government Notification No. 11469—Ex. F. 3-01, dated 10th January 1902, and amended from time to time:—

For the present Rule XI, substitute the following:—

“No foreign spirits weaker in strength than 15° U. P. will ordinarily be entered in the authoritative list issued by the Excise Commissioner, referred to in Rule VII, or allowed to be sold under any of the licenses granted under Rule II except under special licenses and dining car licenses; but the Government may authorise the entry in the list and the sale of any specified brands of weaker strength, on being satisfied of their wholesomeness and purity.”

No. Fl. 4967—S. R. 197-09, dated 7th April 1910.

In exercise of the powers conferred by Section 5 of the Opium Act, I of 1878, the Government of His Highness the Maharaja of Mysore are pleased to make the following amendment in the Opium Rules published under Notification No. 8198—Ex. F. 21-97, dated the 19th May 1900, as amended by Notification No. 1243—Ex. F. 21-97, dated the 24th July 1901:—

In line 1, clause (1), of Rule XI for the words “in quantities of not less than 24 tolas,” substitute “in entire cakes of 20 tolas (more or less).”

By Order,

C. S. BALASUNDARAM IYER,

Officiating Secretary to Government, General
and Revenue Departments.

No. R. 6732—L. R. 264-09-2, dated 9th April 1910.

In exercise of the powers conferred on them by Section 55 (1) of the Mysore Land Acquisition Regulation, No. VII of 1894, the Government of His Highness the Maharaja of Mysore are pleased to issue the following rules under the said Regulation, in supersession of all existing orders on the subject of the acquisition of lands for public purposes and Companies:—

PART I.

Procedure preliminary to obtaining the sanction of Government to the acquisition of land.

I. No land should be acquired by any department except through the Deputy Commissioner of the District in which it is situated.

II. When a Municipality or any department of Government or a Company wishes to acquire land for any public purpose, it shall send a requisition to that effect to the Deputy Commissioner intimating the situation and area of the land required and the purpose for which it is needed together with a sketch of the land, if necessary. The requisitioning authority may also intimate to the Deputy Commissioner a limit of price of the land to be acquired, if it considers it necessary to fix one.

III. In the case of lands to be acquired on behalf of a Company the matter should be referred to Government under Section 39 of the Land Acquisition Regulation and further proceedings as laid down in these rules taken only after Government have signified their approval to the acquisition of the lands under the Regulation.

IV. On receipt of the requisition, the Deputy Commissioner shall make necessary enquiries as to the value of the land and if he considers that the land required cannot be had within the limit, if any, fixed by the requisitioning authority, he shall intimate the same to the department concerned or to the Company, and await its further instructions in the matter. When intimation has been received by the Deputy Commissioner from the department concerned or the Company, of the decision to proceed with the acquisition of the land, the Deputy Commissioner shall after satisfying himself that the requisite funds for the acquisition are available, submit for the sanction of Government a declaration (statement to the department of the Government Secretariat which budgets for and carries out or sanctions the work, with full details as to the description, boundaries and area of the land required as well as the estimated cost of its acquisition. The declaration under the Land Acquisition Regulation will issue from the same department of the Government Secretariat after consideration of the necessity for the acquisition and the expenditure that may be incurred for the purpose.

V. On receipt of the sanction of Government for the acquisition, the Deputy Commissioner shall proceed to acquire the land.

VI. Whenever land which does not already vest in Government is permanently required for Government purposes, it should invariably be acquired under the Land Acquisition Regulation as such acquisition confers an indefeasible title. In acquiring land for temporary occupation also the Regulation should be applied whenever practicable.

VII. Deputy Commissioners should not ordinarily take possession of the land before all the preliminary steps prescribed by the Regulation have been taken. This is so the more especially in view of Section 48 of the Regulation which secures for Government the liberty to withdraw from acquisition (on account of excessive cost or otherwise) when possession has not been taken.

VIII. However, in cases in which land is voluntarily offered by its owner for being applied to a purpose for which the acquisition of the land by Government is necessary, the Deputy Commissioner on being satisfied of the title of the owner to the land, may, where the extent is not large, dispense with the formalities of acquisition under the Regulation.

PART II.

Procedure after sanction is accorded by Government to the acquisition of the land, and publication of the declaration.

IX. After publication of the declaration in the Gazette, the Deputy Commissioner's representative and the representative of the acquiring department or Company should meet on the ground and together demarcate clearly by stakes or other methods the exact area to be acquired. The acquiring officer should, if possible, personally inspect the locality and should, in any case, verify the area with the aid of the map.

X. When land is acquired for a Municipality or a District Board or a Company, the money value awarded for the land acquired or the value of the Government land, if any, given in exchange therefor will be charged against the Local Body or Company on whose behalf the land is acquired. Where land has to be acquired on behalf of a private Company, a sum sufficient to cover the cost of acquisition and other incidental expenses should be required to be deposited immediately after Government sanction to the acquisition of the land is obtained, before any further proceedings are taken.

XI. When acquisition of lands is made on behalf of a Municipality or other Local Body or Company, the Government may also, at their discretion, direct that the assessment should continue to be paid by the Municipality or Local Body or Company or direct the payment of a lump sum in commutation of the liability to pay the assessment. When the acquisition is made on behalf of any department of Government, the assessment will usually be written off on reference to the Revenue Commissioner. If the Revenue Commissioner considers that there are any special grounds for not waiving the recovery of assessment in such cases, he will seek the orders of Government.

XII. In determining the amount of compensation which should be allowed for the land, the acquiring officer should not restrict himself merely to the consideration of such evidence as may be adduced by the claimants but should do his best to obtain any reliable information that may be forthcoming as to the real market value of the land. He should study any estimates framed in connection with the proposal to acquire the land, and make a careful search through indexes maintained in the Sub-Registrar's office to

ascertain the history of the land so far as the Sub-Registrar's records disclose it. Having collected all possible information regarding the value of the land itself, he should collect similar information regarding adjacent land or land of a like character from the Registration Indexes, Survey and Settlement Reports, or any other similar source. He should be careful, however, before accepting the figures shown in documents found in the Registration offices, to examine the history of each transaction as far as possible, as the amounts therein shown are often so inflated by usurious interest as to bear no relation to the real value of the land.

XIII. As a rule, all acquisitions of land involving interests of any appreciable value, should be made by the Deputy Commissioner himself in person with the aid, if necessary, of the Sub-Divisional Officer, in order to ascertain the proper value of the land. Where, however, land is required for an extensive public work or any similar large project and it would not be possible for the Deputy Commissioner personally to attend to such acquisition, a special officer may be appointed, the cost of the special officer so appointed being provided for as part of the cost of the acquisition.

XIV. The-acquiring officer, if he is not the Deputy Commissioner of the District, should also consult the latter in any doubtful or difficult case before making the award. In particular, he should refer to him any case in which he proposes to award more than 10 per cent in excess of the original estimate, or more than Rs. 1,000. He must also refer his proposed award in any case which the Deputy Commissioner by special order requires him to do so, and in all cases where a reference to the Deputy Commissioner is made, the acquiring officer should make his final award according to the instructions received from the Deputy Commissioner.

XV. In fixing the compensation special attention should be paid to the directions given in Sections 23 and 24 of the Regulation and the general principles recognized by the Courts in determining the market value of the land kept in view. The term "market value" means the price which at the given time and place, the land would fetch on sale according to the then rates of the market; and this value depends on general pre-existing considerations apart from the individual projects of a particular purchaser, and does not include merely potential values such as may arise from the use to which the land is to be put.

For instance, when agricultural land is to be acquired for building purposes, the amount payable is its value as agricultural land and not as sites for dwelling houses or as building land for other purposes to which the land might possibly be put in the future.

XVI. For the purpose of his enquiry, the acquiring officer should, in addition to the notices required by Section 9 of the Regulation, give sufficient notice to the departmental or other officer concerned, or the Local Authority or Company for whom the land is being acquired and should give due weight to any representation which such officer may make orally or by writing. More especially he should before making his award allow such

officer an opportunity of appearing in person or by agent and of producing evidence as to the value of the land. (Section 50 of the Regulation.)

XVII. If the acquiring officer's award as finally settled after objections have been heard, exceeds by more than 20 per cent of the preliminary estimate of the cost of acquisition prepared before the issue of a notification under Section 6 of the Regulation or if the evidence is conflicting and such as to indicate the possibility that a Civil Court may award a sum similarly exceeding that estimate, he should not immediately announce the award but should inform the departmental officer of the facts. Further action should then be postponed until the proper authority has decided whether the acquisition should be proceeded with or not.

XVIII. When an award has been made, possession of the land (if not already taken under Section 17 of the Regulation) can be taken at once and need not be deferred till the compensation is paid. The acquisition is completed only when the land is taken possession of, up to which Government are at liberty to withdraw from the acquisition but not afterwards. As soon as it is taken possession of, the land vests absolutely in the Government.

XIX. An award made by a Deputy Commissioner under Section 11 and duly announced under Section 12 of the Regulation, should not be revised or amended by him even though the persons interested may consent to the revision or amendment.

XX. The claims of all persons which can be ascertained by a reference to the Registration indexes are binding on Government whether formally advanced or not. In apportioning compensation care should be taken that all these claims are provided for by a careful search of the Registration indexes as it may often happen that the nominal occupant (khatedar) is one person and the actual possessor another.

XXI. In acquiring service lands, i.e., lands in respect to which service is rendered whether to Government or the village community, in which the actual holder has only a life interest or the profits of which are assigned as remuneration for an officiator, the award of a lump sum as compensation is inappropriate and should not be adopted as such an award would diminish *pro tanto* the remuneration available for future service. In such cases an arrangement under sub-section (3) of Section 31 of the Regulation should be made with the person or persons interested for the grant of other lands in exchange.

XXII. As a rule, the lands selected to be given in exchange should be assessed Government waste. But when no suitable lands are available, the amount of compensation awarded may be applied in purchasing occupied unalienated lands to be assigned in exchange. In exceptional cases, where it will be less expensive to allow some unalienated lands already belonging to the holder to be converted into inam than to purchase other lands for the purpose, the exchange may be permitted and the person enjoying the Inam paid the value of the land so selected in addition to any benefits that he may derive from the treatment of the land as Inam.

XXIII. When the survey valuation of the land selected to be given in exchange is equal to that of the original service Inam, the former will be converted into Inam subject to the payment of the original Jodi.

XXIV. When the survey valuation of the land selected to be given in exchange exceeds that of the original service Inam, the difference between the survey valuation of the two lands will be levied as additional Jodi together with the original Jodi.

XXV. When the survey valuation of the land selected to be given in exchange is less than that of the original service Inam, the original Jodi will be reduced by the difference between the survey valuation of the two lands, and if the difference exceeds the original Jodi, the amount required to make up the deficiency in the profit will be paid in cash annually.

XXVI. In cases where it is not possible to assign lands in exchange, the value of the land acquired will be invested and a cash payment of not less than $2\frac{1}{2}$ times the survey assessment made annually. Where the amount to be paid annually does not exceed Rs. 5, Government in their discretion may direct the payment of a lump sum.

PART III.

Procedure when the award of an acquiring officer is referred to a Civil Court.

XXVII. Whenever an issue is raised in a reference to the Court as to the amount of compensation to be awarded for the land, the Deputy Commissioner should arrange for the defence of the award as if it were a suit against Government, except that the sanction of Government to its defence need not be obtained, but he should make a reference to the Government Advocate stating the lines on which it is proposed to defend it and the evidence it is intended to adduce, and seek his advice before the defence is actually entered on. In particular, care should be taken that reliable evidence is, as far as possible, adduced before the Court in support of the grounds on which the award is based and ordinarily some revenue officer of superior rank (*e.g.* an Amildar or Shekdar) who has himself seen the land, should among others, be called in as a witness. A clear and accurate plan of the land acquired should also, as a rule, be prepared and put in evidence. An officer thoroughly conversant with the facts of the case and able to explain any points of revenue practice that may arise, should invariably be deputed to instruct the Government Pleader during the course of the proceedings and watch the case. When the sum involved is considerable or the compensation is claimed at very high rates, the case should generally be watched by an officer of not lower status than an Assistant Commissioner.

XXVIII. In any case where the reference relates to land acquired for a Local Authority or Company, the Deputy Commissioner should at once give notice of it to such Local Authority or Company calling on it to assist in the defence of the award under Section 50 of the Regulation, and should take all necessary steps for conducting the defence with its co-operation.

XXIX. A special report should be made to Government in cases which are of serious importance owing to the amount involved or the likelihood of the Court's award forming a precedent detrimental to Government interests in the event of land having to be acquired subsequently for the Government in the same neighbourhood.

XXX. When the Court's award in a reference regarding the amount of compensation exceeds that of the acquiring officer, the Deputy Commissioner should at once consider the advisability of making an appeal under Section 54 of the Regulation, and if he decides in favour of this course, should apply to Government for sanction. In cases where an appeal is made by any claimant, the Deputy Commissioner will take steps for its defence and obtain the sanction of Government to engage the Government Advocate to appear on behalf of Government in all cases of importance or where a point of law is involved.

PART IV.

Payment of Compensation.

XXXI. The payment of compensation should be made as soon after the declaration of the award as possible as under Section 34 of the Regulation interest at 6 per cent is payable on the amount of compensation for the interval between the date of taking possession of the land and the date of payment. Accordingly, the Deputy Commissioner should immediately after making an award under Section 11 tender payment of compensation to such of the persons entitled thereto as are then present either personally or by their representatives.

XXXII. To those who are not so present a notice should at once be sent through the Amildar or the Deputy Amildar of the Taluk or Sub-Taluk in which they reside, intimating the fact that an award has been made and that unless the amount awarded is claimed by the party either personally or through a duly authorised agent within a time to be specified, the money will be placed in deposit and will bear no interest.

XXXIII. If the parties accept the tender personally or by application in response to the notice, arrangements should be made to pay them the amounts without delay, after obtaining the necessary receipt. If the claims to be paid are very small and the Treasury is situated at a distance from the village of the claimants, the amounts may be paid to them in their villages by the Amildar personally or adjusted at their request against Government dues. If the parties do not demand payment within the time specified and do not apply for a reference to the Court under Section 18 of the Regulation, the compensation money should be placed in Revenue Deposit and dealt with under the rules relating to Revenue Deposits. If the parties declining to accept payment desire a reference to the Court or if any of the other contingencies mentioned in Sections 30 and 31 (2) of the Regulation has happened, the compensation money should be deposited in the Civil Court.

By Order,

C. S. BALASUNDARAM IYER;

Officiating Secretary.